



**THE ATTORNEY GENERAL  
OF TEXAS**

**CRAWFORD C. MARTIN**  
ATTORNEY GENERAL

**AUSTIN, TEXAS 78711**

McCreless v.  
City of San Antonio  
454 SW 2d 393  
Texas Sup. Ct. 197

April 9, 1968

The Honorable James E. Barlow  
Criminal District Attorney  
Bexar County Courthouse  
San Antonio, Texas 78204

Opinion No. M- 217

Re: Tax status of residence  
of Executive Director  
of San Antonio Council  
of Churches.

Dear Mr. Barlow:

We have been furnished the following facts in connection with your request for an official opinion from this office concerning the above referenced matter. We quote from your letter and the letters of your assistants:

"This is to request your official opinion on whether or not the residence of the Executive Director of the San Antonio Council of Churches is entitled to tax exemption, the title of which is in the name of the San Antonio Council of Churches.

"The San Antonio Council of Churches is a Protestant organization for the co-operative action of certain Protestant Churches. It has as members units of the Baptist Church, the Christian (Disciples of Christ), Evangelical United Brethren, Episcopal, Lutheran, Methodist, Methodist A.M.E., Presbyterian, United Church of Christ, and military chaplains at the local military bases. It has trustees, a board of directors, and is run by an Executive Director, C. Don Baugh, an ordained minister of the Disciples of Christ."

"Rev. Baugh resides at 2334 Blanton which is in a residential area. The Council of Churches had this residence constructed as a parsonage and had it particularly designed for their special uses. They have

regular meetings in the parsonage including the Youth Council, the faculty of the leadership school, committees of the YMCA, and other groups connected with the Council of Churches.

"Rev. Baugh actively performs the duties of a minister, i.e. delivering sermons on an interdenominational basis at various churches and baptisms, marriage ceremonies and communion. Rev. Baugh and his family are presently members of a local Episcopal church and he is a registered postulant (in the process of being ordained in the Episcopal Church.) The Disciples of Christ recognize dual ordination."

We were also informed that representatives of member churches in 1943 organized the San Antonio Council of Churches, the purposes of which were as follows:

"1. To proclaim, and, through practical demonstration, to bear witness to the essential unity of the Christian Church by the fellowship, cooperation and the combined efforts and services, regardless of denominational alignments, of Christian people in the San Antonio area.

"2. To provide an interdenominational agency enlarging and extending the work of the Christian Church, impossible of accomplishment by an individual church, in the fields of Evangelism, Christian Education, Social Relations, United Worship and Christian Fellowship, and community religious welfare.

"The Council shall be autonomous and not at any time affiliated with or a member of any other church council.

"The Council shall not concern itself with the dogma, practices or the governmental structure of its member churches.

"The Council shall be a non-profit organization. No member officer, committeeman or other person connected with the Council, other than members of its employed staff, shall receive any compensation whatever for his or her

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services. The funds received from all sources shall be used exclusively in carrying out the purposes and work of the Council."

We were also informed that Reverend C. Don Baugh, the Executive Director, serves as minister-at-large for member churches of which there are presently 105; when the minister of a member church is out of the city or is ill, he preaches for them, performs marriages, and buries their dead. The subject property is an ordinary three-bedroom, dining room, den, kitchen and patio, and the living room, den and patio "are at times used for official Council entertainment functions. The Council specifically designed the house with official entertainment in mind, such as, the housing of guest speakers"; other than an occasional wedding no religious services are held in the residence; the Council is financed 97% by member churches and 3% by individual contributions; the Council is incorporated (December 18, 1958) and has three full time employees and three part time employees, five of the six being ordained ministers; title to the residence is in the name of "The Council of Churches of Metropolitan San Antonio."

Article VIII, Section 1 of the Constitution of the State of Texas, provides for equal and uniform taxes as follows:

"Taxation shall be equal and uniform. All property in this state, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law. . . ."

Article 7145, Vernon's Civil Statutes, provides:

"All property, real, personal or mixed, except such as may be hereinafter expressly exempted, is subject to taxation, and the same shall be rendered and listed as herein prescribed."

Article VIII, Section 2 of the Texas Constitution, provides that the legislature may by general laws, exempt from taxation:

". . . any property owned by a church or by a strictly religious society for the

exclusive use as a dwelling place for the ministry of such church or religious society, and which yields no revenue whatever to such church or religious society; provided that such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land; . . ."

In 1961, pursuant to the above, the legislature enacted Article 7150b, Vernon's Civil Statutes, which provides as follows:

"There is hereby exempted from taxation any property owned exclusively and in fee by a church for the exclusive use as a dwelling place for the ministry of such church, and which property yields no revenue whatever to such church; provided that such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land; and provided further that the fact that the ministry uses a portion of the dwelling as their study, library or office shall not prevent the property from being considered as being used exclusively as a dwelling place. For purposes of this Act, 'church' includes a strictly religious society; and 'ministry of such church' means these persons whose principal occupation is that of serving in the clergy, ministry, priesthood or presbytery of an organized church or religion, whether they are assigned to a local church parish, synagogue, cathedral or temple or some larger unit of the church organization and whether they perform administrative functions or not."

The rule of statutory construction has been stated as follows:

"All statutes for the exemption of property from taxation are to be strictly construed against the exemption, and in favor of the state and taxation. An exemption cannot be raised by implication, ~~but the intention to~~ relieve from the burden of taxation must appear affirmatively. If there

be an ambiguity as to what is exempt, it must operate against the owners of the property and in favor of the public, and all reasonable doubts as to the proper interpretation of a statute providing for exemptions from taxation must be resolved in favor of the right to tax." Radio Bible Hour, Inc. v. Hurst-Euleless Independent District, 341 S.W.2d 467 (Tex.Civ.App. 1960, error ref., n.r.e.).

Under Article 7150b, if the primary use of a building is that of a residence for the minister of a church and his family, the mere fact that it is incidentally used for other things, such as a study, office or library, will not prevent it from being tax exempt. Hilltop Village, Inc. v. Kerrville Independent School District, 11 Tex.Sup.Ct.Journal 314 (1968); cf. also 15 A.L.R.2d 1068, 1069 (annotation 1951). Under the stated facts the subject property is used primarily as a residence for Rev. Baugh.

The next question presented is whether the Council of Churches is a "church" or a "strictly religious society" as those terms are used in the statute. The statute defines "church" as including a "strictly religious society." The facts given us are to the effect that this Council is incorporated under the laws of Texas, and its constitution shows that its purpose is the spreading of the Christian faith. Therefore, we believe it comes within the statutory definition of a "strictly religious society" and falls within the term, "church". The same statute states "... 'ministry of such church' means these persons whose principal occupation is that of serving in the clergy, ministry, priesthood or presbytery of an organized church or religion, ... whether they perform administrative functions or not." We believe Rev. Baugh, being an ordained minister who not only assists the clergy of member churches but also acts as the administrative head of the Council (an organized church within the meaning of the statute), and serves as a minister-at-large, is a "minister" as that term is defined in Article 7150b. Vol. 27, Words and Phrases, p. 413, defines "ministry" as the performance of ecclesiastical functions or duties, and is not restricted in the sense of "clergy." Rector, etc. of St. George's Church in City of New York v. Morgan, 152 N.Y.S. 497; accord, Black's Law Dictionary, Fourth Edition.

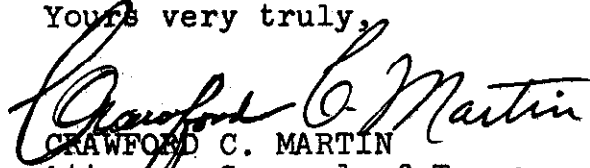
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We therefore conclude that the residence of Rev. Baugh is exempt from the payment of ad valorem taxes in view of the facts furnished.

SUMMARY

It is the opinion of this office, based on the facts furnished us, and limiting our opinion thereto, that the residence of the Executive Director of the San Antonio Council of Churches is exempt from ad valorem taxation under Article 7150b, Title 122, Ch. 6, V.C.S.

Yours very truly,

  
CRAWFORD C. MARTIN  
Attorney General of Texas

Prepared by Fisher A. Tyler  
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APPROVED:  
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